



RIGHTS STUFF

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Definition of Retaliation Expanded

The U.S. Supreme Court issued a ruling in January, 2009, that will help protect employees from being retaliated against for cooperating in internal harassment investigations.

Gene Hughes was the employee relations director of a Tennessee school system. The school system, after receiving complaints about Mr. Hughes' conduct, conducted an internal investigation. Veronica Frazier from human resources talked to one of Mr. Hughes' coworkers, Vicky Crawford, who had worked for the school for 30 years. Ms. Frazier asked Ms. Crawford if she had witnessed inappropriate behavior on Mr. Hughes' part. Ms. Crawford told Ms. Frazier that Mr. Hughes had grabbed his crotch when she asked him what was up and said, "You know what's up." She said that Mr. Hughes had repeatedly "put his crotch up to [her] window." She said he once came into her office, grabbed her head and pulled it to his crotch.

As a result of the investigation, the school gave Mr. Hughes an oral reprimand. The school terminated Ms. Crawford and two other women who had answered questions during the investigation. The school accused Ms. Crawford of embezzlement; she denied that allegation, and the school did not pursue that claim through criminal charges.

Ms. Crawford sued the school system, saying the school had retaliated against her for cooperating with their internal investigation. In 2006, the U.S. Court of Appeals for the Sixth Circuit dismissed her complaint. The Court said that she was not pro-

tected from retaliation because all she had done was answer questions during an internal investigation. She had not complained of discrimination herself or taken more definite steps to "oppose" discrimination, steps that would have protected her from retaliation under Title VII of the U.S. Civil Rights Act of 1964. That law protects people from retaliation if they have "opposed any practice made an unlawful employment practice" by this law (the opposition clause) or if they have "made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing" under this law (the participation clause). The Sixth Circuit said that the opposition clause demands "active, consistent" opposition. Ms. Crawford had not shown such opposition when she merely answered questions. Participating in the school's internal investigation was not protected by the participation clause, according to the Sixth Circuit; only participation in an EEOC investigation or a court case would be afforded legal protection from retaliation.

Justice David Souter, writing for himself and six other justices, overruled the Sixth Circuit. He said that lesser forms of opposition to discrimination deserve protection as well. Justice Souter said that Ms. Crawford's statement is protected by the opposition clause, "as an ostensibly disapproving account of sexually obnoxious behavior toward her by a fellow employee, an answer she says antagonized her employer to the point of

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EEOC Settles Sexual And Religious Harassment Case

James L. Orrington is a dentist in Chicago. According to some of his former employees, he required them to learn about Scientology to keep their jobs. He required them to attend Scientology seminars and watch Scientology videos in the dental office. Before he would give them their paychecks, he required them to write or recite formulas that Scientologists believe help people move from a lower state of mind to a higher one.

The employees said that Dr. Orrington also subjected them to sexual propositions and touchings on an almost daily basis.

Ten of Dr. Orrington's employees, all women, filed complaints with the Equal Employment Opportunity Commission, alleging that he had discriminated against them on the basis of sex and/or religion. They said the dentist fired two of them after they asked him to stop the harassment and fired three more after they filed their formal complaints with the EEOC.

After the complaints were filed, the EEOC attempted to settle the matter. When the EEOC was unable to do so, it filed a class action law suit alleging discrimination on the basis of sex and religion as well as retaliation. The matter was settled by a consent decree in January, 2009. Under the terms of the decree, the dentist will pay \$462,500 to the plaintiffs. He will also contract with an outside representative to receive and investigate complaints of discrimination, adopt and distribute a policy against discrimination, harassment and retaliation, provide training to employees, submit reports to the EEOC about complaints of harassment and post a notice at his facility regarding the outcome of the lawsuit.

John Hendrickson, the regional attorney for the EEOC, said "We're glad to see this case brought to a successful conclusion. The misconduct here was shameful - combining sex, forced Scientology, and putting people's jobs on the line - and it was especially shameful because the person doing it was a medical pro-

fessional who occupied a position of trust in his community. Having the decree remain in effect for three years will let us be certain we really have put a stop to these illegal practices."

If you have questions about your rights and responsibilities under fair employment laws, please contact the Bloomington Human Rights Commission. ♦



Definition Of Retaliation (continued from page 1)

sacking her on a false pretense." As he wrote, "Countless people were known to 'oppose' slavery before emancipation, or are said to 'oppose' capital punishment today, without writing public letters, taking to the streets or resisting the government. Nothing in the statute requires a freakish rule protecting an employee who reports the same discrimination in the same words when her boss asks her a question."

Justice Samuel Alito, writing for himself and Justice Clarence Thomas, joined the decision but did not adopt Justice Souter's reasoning. He expressed concern that too broad of a reading of the non-retaliation language could lead to an avalanche of EEOC complaints. He wrote that the ruling "does not and should not extend beyond employees who testify in internal investigations." The Court majority found that argument unconvincing, noting that in several cases, it has given employers

protection from liability for harassment if they have exercised reasonable care to prevent and correct any discrimination that occurred at the workplace. The case is Crawford v. Metropolitan Government of Nashville and Davidson County, Tennessee, 2009 WL 160424. If you have any questions about your rights and responsibilities under fair employment laws, please contact the BHRC. ♦



Local Women Honored

Mayor Mark Kruzan announced that three local women will be honored during March for their outstanding service to our community. Christine Glaser has been named Bloomington's Woman of the Year, Anne Reese is the recipient of the Lifetime Contribution Award and Melissa Britton has been chosen to receive the Emerging Leader award.

The recipients were selected by members of the annual Women's History Month Lunch Committee, which is organized by the City of Bloomington Commission on the Status of Women. The Woman of the Year and Lifetime Contribution Award recipients will be honored at the lunch, which will be held on Wednesday, March 11, at the Convention Center of Bloomington-Monroe County located at 302 S. College Avenue.

The theme of this year's program is "Women Taking the Lead to Save

Our Planet" and will feature Keynote Speaker Lisa Sideris, assistant professor in the Department of Religious Studies at Indiana University. The title of her presentation is "Rachel Carson and the Rise of Environmentalism." Sideris's research has focused on the intersection of religion, science and environmental ethics and she has recently co-edited *Rachel Carson: Legacy and Challenge* with Kathleen Dean Moore.

Woman of the Year Christine Glaser was nominated by Sharon Andrews and Patricia Pershing. Christine has worked as a researcher, college professor, consultant and advocate of environmental, economic and social issues for more than 20 years. In nominating Glaser, both Andrews and Pershing commented on her tireless efforts to help the Bloomington community "go green" and her passionate advocacy for peace and hu-

manity toward all beings.

Lifetime Contribution Award winner Anne Reese was nominated posthumously by Carol McCord, Barbara Light, Kathryn Brown and Judy Klein. Anne's career started with Planned Parenthood in Bloomington where she worked for many years as a health and sexuality educator and helped initiate the Family Life Education program for Girl Scouts. She later worked as a Health Educator at the IU Health Center and became director of the Health and Wellness Education Department.

The Emerging Leader Award will be presented at a women's leadership workshop on March 30, at City Hall. For more information about the lunch, workshop or Leadership Scholarship Initiative, contact Sue Owens at 349-3468.

2009 Human Rights Award Winners Announced

The BHRC has announced the winners of its tenth annual Human Rights Awards. This year, the BHRC chose Helen Harrell as the individual recipient and Voices and Visions: Islam and Muslims from a Global Perspective as the organizational recipient.

Helen Harrell was chosen for her tireless work for human rights. Among her many activities: she's a board member of WFHB; she won a grant to develop the radio program bloomingOUT for WFHB; she's a board member of the Bloomington Black Business Association; she's a columnist for both The Word and Bloomington Alternative and she's served as a panelist

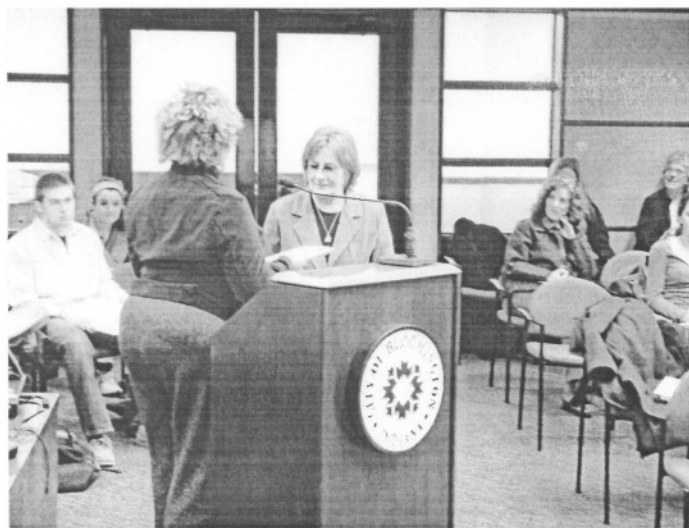
for numerous academic and community programs.

Voices and Visions was chosen because of its ongoing efforts to tackle issues relating to Islam and Muslims in a balanced, sensitive and scholarly manner. Voices and Visions consists of 60 podcasts produced with WFIU and several events. The events include a month-long arts exhibit at the John Waldron Arts Center, film festivals, panel discussions and an upcoming media program on "Uncovering Islam: Reporting, Representing and Responsibility." The program is a product of IU's Center for the Study of Global Change in partnership with IU's African Studies Program, East Asian

Studies Center, Inner Asian and Uralic National Resources Center, Russian and Eastern European Institute. West European Studies, Center for International Business Education and Research, the IU School of Journalism, WFIU, the Islamic Center and the Bloomington Area Arts Council. Hilary Kahn accepted the award for the group.

The Human Rights Awards honor individuals or groups who make specific and significant contributions to improving civil rights, human relations or civility in our community. Judge Valeri Haughton, chair of the BHRC, presented the awards at the Bloomington Common Council meeting on February 18, 2009. ♦

(See pictures on page 4)



Judge Valeri Haughton presents the Human Rights Awards to Helen Harrell (above) and Hilary Kahn. Kahn accepted the award on behalf of "Voices and Visions: Islam and Muslims from a Global Perspective."



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